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# ELIZABETHAE II REGINAE

A.D. 1990

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No. 52 of 1990

An Act to amend the Road Traffic Act, 1961.

[Assented to 22 November 1990]

The Parliament of South Australia enacts as follows:

## Short title

1. (1) This Act may be cited as the *Road Traffic Act Amendment Act (No. 2), 1990*.
- (2) The *Road Traffic Act, 1961*, is referred to in this Act as "the principal Act".

## Commencement

2. (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.
- (2) Sections 5 and 13 will come into operation on the day on which this Act is assented to by the Governor.

## Interpretation

3. Section 5 of the principal Act is amended by inserting after the definition of "period of low visibility" in subsection (1) the following definition:

"radar detector or jammer" means a device the sole or principal purpose of which is to detect when a traffic speed analyser is being used or to prevent the effective use of a traffic speed analyser.

## Substitution of s. 33

4. Section 33 of the principal Act and the heading preceding that section are repealed and the following heading and section are substituted:

### *Road Closing and Exemptions for Road Events*

#### **Road closing and exemptions for road events**

33. (1) On the application of any person interested, the Minister may declare that an event that is to take place on a road is an event to which this section applies and may make an order directing either or both of the following:

- (a) that a road on which the event is to be held and any adjacent or adjoining road be closed to traffic for a specified period;

- (b) that persons taking part in the event be exempted, in relation to a road on which the event is to be held, from the duty to observe an enactment, regulation or by-law prescribing a rule to be observed on roads by pedestrians or drivers of vehicles.

(2) An order to close a road under subsection (1) can only be made with the consent of every council within whose area a road intended to be closed by the order is situated.

(3) At least two clear days before an order to close a road under subsection (1) takes effect, the Minister must, at the cost of the applicant, advertise a copy of the order in two newspapers, one being a newspaper circulating generally in the State.

(4) An order under this section is subject to any conditions which the Minister thinks fit to impose and, upon breach of any condition, ceases to have effect.

(5) An order under this section renders lawful anything done in accordance with the order.

(6) An order under this section may apply to the whole or a part of a road.

(7) In addition to any other power to regulate traffic conferred by this or any other Act, a member of the police force may give such reasonable directions to persons driving vehicles or walking on a road as are, in the member's opinion, necessary for the safe and efficient conduct of an event to which this section applies.

(8) Such directions may include directions for clearing vehicles or persons from a road or part of a road or temporarily closing a road or part of a road and may be given on the day of an event in preparation for, during or immediately after the conclusion of, the event.

(9) A person to whom a direction of a member of the police force is given pursuant to this section must forthwith comply with it.

(10) In this section—

“event” means an organized sporting, recreational or other similar activity, whether those taking part are in competition with another person or not, and includes—

(a) a race;

(b) practice for a race.

### **Breath testing stations**

5. Section 47da of the principal Act is amended by striking out from subsection (5) “three months” and substituting “six months”.

### **Insertion of s. 53b**

6. The following section is inserted after section 53a of the principal Act:

#### **Offences relating to radar detectors or jammers**

53b. (1) A person must not—

(a) sell, offer for sale or use a radar detector or jammer;

or

(b) drive a motor vehicle that contains a radar detector or jammer.

(2) A member of the police force may seize, retain and test any device that he or she has reasonable cause to suspect is a radar detector or jammer.

(3) A device seized pursuant to this section is forfeited to the Crown if—

(a) a person is found guilty of an offence against this section in relation to the device;

or

(b) a person alleged by a member of the police force to have committed an offence against this section in relation to the device is given a traffic infringement notice in respect of the alleged offence pursuant to the *Summary Offences Act, 1953*, and expiates the offence in accordance with the terms of that notice.

(4) A device forfeited pursuant to this section must be disposed of in such manner as the Commissioner of Police directs.

(5) In proceedings for an offence against this section, an allegation in the complaint that a specified device is a radar detector or jammer is proof of the matter so alleged, in the absence of proof to the contrary.

### **Driving on footpaths**

7. Section 61 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsection:

(2) Subsection (1) does not prevent—

(a) a person who, by reason of physical infirmity, reasonably requires the use of a wheelchair, from operating a wheelchair (including a wheelchair propelled or capable of being propelled other than solely by muscular force) on a footpath;

or

(b) an employee of the Australian Postal Commission from driving a cycle on a footpath,

provided that, in doing so, he or she—

(c) does not operate the wheelchair or drive the cycle at a greater speed than 10 kilometres an hour;

and

(d) complies with the regulations.

### **Amendment of heading**

8. The heading immediately preceding section 75 of the principal Act is amended by inserting “, *Signals*” after “*Traffic Lights*”.

### **Duties at traffic lights**

9. Section 75 of the principal Act is amended—

(a) by inserting in subsection (1) “signals or” after “traffic lights or any”;

(b) by inserting in subsection (1a) “signals or” after “traffic lights or any”;

and

(c) by inserting in subsection (2) “any signals or” after “Traffic lights and”.

### **General provision as to signals, signs and marks**

10. Section 76 of the principal Act is amended—

(a) by striking out from subsection (1) the definition of “traffic sign” and substituting the following definitions:

“traffic sign” means a sign or mark erected or placed on or near a road for the purpose of regulating the movement of traffic or the parking or standing of vehicles:

“traffic signal” means a signal erected or placed on or near a road for the purpose of regulating the movement of traffic or the parking or standing of vehicles.;

- (b) by striking out from subsection (2) “of a motor vehicle”;
- (c) by inserting in subsection (2) “traffic signal or” after “indicated by a”;
- (d) by inserting in subsection (4) “traffic signal or” after “or as part of, a”;
- (e) by inserting in subsection (5) “signal,” after “subsection (2), a”;
- (f) by striking out from subsection (5) “motor”;
- and
- (g) by inserting in subsection (5) “traffic signal or” before “traffic sign”.

**Provisions applying where certain offences are detected by photographic detection devices**

**11. Section 79b of the principal Act is amended—**

- (a) by striking out from subsection (1) the definition of “registered owner” and substituting the following definition:

“registered owner” of a vehicle means—

- (a) a person registered or recorded as the owner or an owner of the vehicle under the *Motor Vehicles Act, 1959*, or a similar law of the Commonwealth or another State or a Territory of the Commonwealth;

or

- (b) a person to whom a trader’s plate, a permit or other authority has been issued under the *Motor Vehicles Act, 1959*, or a similar law of the Commonwealth or another State or a Territory of the Commonwealth, by virtue of which the vehicle is permitted to be driven on roads,

and includes—

- (c) if the ownership of the vehicle has been transferred but the transferee has not yet been registered or recorded as the owner of the vehicle—a person to whom ownership of the vehicle has been transferred;

or

- (d) if a person has possession of the vehicle by virtue of the hire or bailment of the vehicle—that person.;

- (b) by striking out paragraph (b) of subsection (2) and the word “or” appearing immediately before that paragraph and substituting the following paragraphs:

- (b) that the registered owner, or, if the registered owner is a body corporate, an officer of the body corporate acting with the authority of the body corporate, has furnished to the Commissioner of Police a statutory declaration stating the name and address of some person other than the registered owner who was driving the vehicle at the time;

or

- (c) that—

- (i) if the registered owner is a body corporate—the vehicle was not being driven at the time by any officer or employee of the

body corporate acting in the ordinary course of his or her duties as such;

- (ii) the registered owner does not know and could not by the exercise of reasonable diligence have ascertained the identity of the person who was driving the vehicle at the time;

and

- (iii) the registered owner, or, if the registered owner is a body corporate, an officer of the body corporate acting with the authority of the body corporate, has furnished to the Commissioner of Police a statutory declaration stating the reasons why the identity of the driver is not known to the registered owner and the inquiries (if any) made by the registered owner to identify the driver.;

(c) by inserting in paragraph (b) of subsection (3) “or (c)” after “subsection (2) (b)”;

(d) by striking out paragraph (a) of subsection (5) and substituting the following paragraph:

(a) a statement that a copy of the photographic evidence on which the allegation is based—

- (i) will, on written application to the Commissioner of Police by the person to whom the traffic infringement notice or summons is issued, be sent by post to the address nominated in that application or (in the absence of such a nomination) to the address of the registered owner;

and

- (ii) may be viewed on application to the Commissioner of Police;;

(e) by striking out from subsection (6) “stating that a copy of the photographic evidence may be viewed on application to the Commissioner of Police” and substituting the following:

stating that a copy of the photographic evidence—

- (a) will, on written application to the Commissioner of Police by the person to whom the traffic infringement notice or summons is issued, be sent by post to the address nominated in that application or (in the absence of such a nomination) to the address of the registered owner;

and

- (b) may be viewed on application to the Commissioner of Police.;

(f) by inserting after subsection (9) the following subsection:

(9a) A photographic detection device may, for the purpose of obtaining evidence of the commission of a prescribed offence, be programmed, positioned, aimed and operated so that a photograph is taken of a vehicle—

- (a) in the case of an offence against section 75 (1)—from the rear of the vehicle;

or

- (b) in the case of a prescribed offence other than an offence against section 75 (1)—from either the front or the rear of the vehicle.;

(g) by inserting in subparagraph (ii) of paragraph (a) of subsection (10) “this Act and” after “the requirements of”;

and

(h) by inserting in subparagraph (ii) of paragraph (b) of subsection (10) “this Act and” after “that the requirements of”.

#### **Insertion of s. 79c**

12. The following section is inserted after section 79b of the principal Act:

##### **Interference with photographic detection devices**

79c. A person who, without proper authority—

(a) wilfully interferes with the time measuring or speed computing components of, or any seal affixed to, a photographic detection device;

or

(b) with intent to prevent the correct functioning of a photographic detection device, interferes with the functioning of a photographic detection device,

is guilty of an offence.

Penalty: \$4 000 or imprisonment for 1 year.

#### **Regulations**

13. Section 176 of the principal Act is amended by inserting in paragraph (p) of subsection (1) “, including fees for the inspection of vehicles by any Department of the Public Service of the State for the purposes of this or any other Act” after “specified matters”.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor